

REMARKS

At the time of the Second Office Action dated August 20, 2007, claims 1-12 were pending and rejected in this application.

Applicants have cancelled claims 1-12 to remove these claims from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the prior art cited by the Examiner, as the present claim cancellations are only for facilitating expeditious prosecution of the present application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

CLAIMS 1-12 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON SUZUKI ET AL., U.S. PATENT PUBLICATION NO. 2002/0032616 (HEREINAFTER SUZUKI), IN VIEW OF STEED ET AL., U.S. PATENT PUBLICATION NO. 2002/0107755 (HEREINAFTER STEED)

Claims 1-12 have been cancelled, and thus, the Examiner's rejection as to these claims is moot.

Referring to page 4 of the Decision on Appeal, the Honorable Board made the following finding of fact:

4. Appellants' Specification describes that a "profile" can specify a merchant and further can have a configuration for routing the payment messages to the mobile server wallets when a source of the payment messages matches a merchant identity specified in the profiles. (p. 4).

Referring to the paragraph spanning pages 12 and 13 of the Decision on Appeal, the Honorable Board presented the following analysis:

With regard to the profiles linked to the plug-in, as recited in claim 2, Appellants' Specification describes that the profiles can specify a merchant and route the payment messages. (FF 4). Thus, since Suzuki's payment system specifies merchants and routes payment messages (FF 6, 8, 9, 10), as discussed *supra*, the combination of Suzuki and Steed makes obvious "a plurality of profiles communicatively linked to said filter plug-in." Therefore, Appellants' argument is not persuasive as to error in the rejection.

Although newly-presented independent claims 13, 17, and 21 each recite a plurality of profiles, Applicants note that the recitation of the profiles within the current claims is not entirely consistent with the Honorable Board's analysis reproduced above. Specifically, as claimed, the profile is used to both (i) select certain specific messages from the plurality of messages flowing through proxy server system and (ii) redirect these selected messages to a specified one of the plurality of mobile server wallet providers.

The Honorable Board's analysis involved identifying teachings within Suzuki of specifying merchants and the routing of payment messages. The Honorable Board's analysis also included an implied claim construction of profiles that inferred profiles are used to route a payment message to a mobile server wallet when a payment message matches a specific merchant identify specified in the profile. Although the Honorable Board then concluded that the combination of Suzuki and Steed makes obvious the claimed profile recited in claim 2 (now cancelled), the Honorable Board did not identify any teachings within Suzuki or Steed that

1 corresponds to the profile. Instead, the Honorable Board's analysis identified the profile's
2 functionality as being obvious without ever establishing that the specific feature that provided
3 this functionality as being obvious.

4
5 This analysis notwithstanding, as discussed above, the claimed profile involves two
6 characteristics that were not addressed by the Honorable Board's analysis. Specifically, both the
7 applied prior art and the Honorable Board's analysis is silent as to the claimed profile being used
8 to select specific ones of the plurality of messages. Moreover, both the applied prior art and the
9 Honorable Board's analysis is silent as to the same profile being used to reroute the same
10 selected message to a specific one of the plurality of mobile server wallet providers. These
11 combination of characteristics have not been rendered obvious by the applied prior art.

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13 Therefore, for above-described reasons, Applicants respectfully submit that a rejection of
14 claims 13-24 under 35 U.S.C. § 103 for obviousness based upon Suzuki and Steed would not be
15 obvious.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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